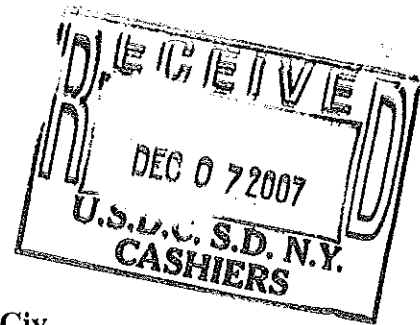


JUDGE DANIELS
345-07PJG/PLS

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07 CV 11077



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
COSMOTRADE EXPORT SA,

07 Civ.

Plaintiff,

-against-

VERIFIED COMPLAINT

GABRO INTERNATIONAL AG,

Defendant.
-----X

Plaintiff, COSMOTRADE EXPORT SA (hereinafter "COSMOTRADE") for its Verified Complaint against Defendant GABRO INTERNATIONAL AG (hereinafter "GABRO"), alleges upon information and belief as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure in that it involves a claim for the breach of a maritime contract of charter party. This case also falls under this Court's admiralty and maritime jurisdiction pursuant to 28 U.S.C. §1333 and the Court's federal question jurisdiction pursuant to 28 U.S.C. §1331.

2. At all times material hereto, Plaintiff COSMOTRADE was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an address in Piraeus, Greece.

3. At all times relevant hereto, Defendant GABRO was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an address at Postrasse 18, CH-3600 Zug, Switzerland.

4. On or about August 24, 2006, Plaintiff COSMOTRADE, in the capacity as owner of the M/V CHANG LE MEN, entered into a maritime contract of charter party with Defendant GABRO, as charterer, for the carriage of a partial cargo of 3,500 hot rolled plates 5% more or less in Charters' option. A copy of the charter party is annexed as Exhibit A.

5. Plaintiff COSMOTRADE duly tendered the vessel into service under the charter, the voyage was performed and \$30,000 remains due and owing to COSMOTRADE under the charter party.

6. In breach of the terms of the charter party, and despite due demand and otherwise agreeing the amount was due, GABRO has refused and/or otherwise failed to pay the amounts due and outstanding under the charter party, and the entire amount of \$30,000 remains due and owing.

7. The charter party provides for the application of English law and all disputes between the parties are to be resolved by the arbitration in London, and COSMOTRADE specifically reserves its right to have this dispute resolved in London.

8. This action is brought to obtain jurisdiction over GABRO and to obtain security in favor of Plaintiff COSMOTRADE in respect to its claims against GABRO and in aid of London proceedings.

9. Under English law, costs including attorney fees, disbursements and interest are recoverable as part of Plaintiff's claim.

10. This action is further brought to obtain security for any additional sums to cover Plaintiff's anticipated attorney fees and costs in the London proceedings and interest, all of which are recoverable as part of Plaintiff's claim under English law.

11. Under English law, including but not limited to Section 63 of the English Arbitration Act of 1996, costs including attorney fees, arbitrators' fees, disbursements and interest are recoverable as part of COSMOTRADE's claim.

12. Plaintiff estimates, as nearly as can be computed, that the legal expenses and costs of prosecuting the claim in London will be \$5,000 and interest on its damages are estimated to be \$3,873.66 (calculated at the rate of 7% from the time payment was due for a period of one year, the estimated time for completion of the proceedings in London).

Request for Rule B Relief

13. Upon information and belief, and after investigation, Defendant cannot be "found" within this District for the purpose of Rule B of the Supplemental Rules of Certain Admiralty and Maritime Claims, but Plaintiff is informed that Defendant has, or will shortly have, assets within this District comprising, *inter alia*, cash, funds, escrow funds, credits, debts, wire transfers, electronic funds transfers, accounts, letters of credit, freights, sub-freights, charter hire and/or sub-charter hire, of, belonging to, due or for the benefit of Defendant (collectively hereinafter, "ASSETS"), including but not limited to ASSETS in its name at, moving through, or being transferred and/or wired to or from banking institutions or such other garnishees who may be served with a copy of the Process of Attachment issued herein.

14. The total amount to be attached pursuant to the calculations set forth above is \$38,873.66.

WHEREFORE, Plaintiff COSMOTRADE EXPORT SA prays:

- a. That process in due form of law according to the practice of this Court may issue against Defendant citing it to appear and answer the foregoing;
- b. That if Defendant cannot be found within this District pursuant to Supplemental Rule B that all tangible or intangible property of Defendant up to and including **\$38,873.66** be restrained and attached, including, but not limited to any cash, funds, escrow funds, credits, debts, wire transfers, electronic funds transfers, accounts, letters of credit, freights, sub-freights, charter hire and/or sub-charter hire, of, belonging to, due or being transferred from or for the benefit of Defendant (collectively hereinafter, "ASSETS"), including but not limited to such ASSETS as may be held, received, or transferred in its name or as may be held, received or transferred for its benefit, at, through, or within the possession, custody or control of such banking institutions and/or any such other garnishees who may be served with a copy of the Process of Maritime Attachment and Garnishment issued herein;
- c. That this Court retain jurisdiction over the matter for any further or supplemental proceedings as may be necessary, including but not limited to the recognition and enforcement of any judgment entered against the Defendant in the London proceedings; and
- d. For such other, further and different relief as this Court may deem just and proper in the premises.

Dated: New York, New York
December 6, 2007

FREEHILL HOGAN & MAHAR, LLP
Attorneys for Plaintiff

By: 

Peter J. Gutowski (PG 2200)
Pamela L. Schultz (PS 8675)
80 Pine Street
New York, NY 10005
(212) 425-1900

ATTORNEY VERIFICATION

State of New York)
) ss.:
County of New York)

PETER J. GUTOWSKI, being duly sworn, deposes and says as follows:

1. I am a partner with the law firm of Freehill Hogan & Mahar, LLP, attorneys for Plaintiff in this action, I have read the foregoing Verified Complaint and know the contents thereof, and the same is true to the best of my knowledge, information and belief.

2. The sources of my information and the grounds for my belief are communications, information and documentation provided by our client and/or by solicitors representing our client.

3. The reason this verification is made by an attorney and not by the Plaintiff is because the Plaintiff is a foreign entity, none of whose officers are presently within this Judicial District.



Peter J. Gutowski

Sworn to before me this
6 day of December 2007


Notary Public

HAZEL S. ROSENTHAL
Notary Public, State of New York
No. 01RO4841178
Qualified in Queens County
Certified in New York County
Commission Expires Dec. 31, 2010

Original

Stehn & Co.

Tel.: 514 77-7

Fax: 514 77 999

e-mail: stehn@hamburg.stehn.de

Brodersweg 3, 20148 Hamburg

STEMMOR CHARTER PARTY(1983)Adapted from:
C.(Ore) 7
Mediterranean
IRON ORE

London, Hamburg, 24th August, 2006

1 IT IS THIS DAY MUTUALLY AGREED BETWEEN COSMOTRADE EXPORT SA

of Owners of the M.V. "CHANG LE MEN"

and GABRO INTERNATIONAL AG of Zug, Switzerland

Charterers as follows:

Vessel's condition
and eligibility
to trade

1A Owners warrant that the vessel is tight, staunch and strong, in class, and in every way fitted for the voyage, with her hull, machinery and equipment in a thoroughly efficient state and with a full and efficient complement of Master, Officers and crew, insofar as the foregoing conditions can be attained by the exercise of due diligence. Owners further warrant that the vessel is eligible for trading to the ports and places specified for the voyage and at all times shall have on board all certificates, records and other documents required for such trading.

1B Owners guarantee vessel's description See Clause 43

Vessel's
description

Deck

Single

deck

Tween

holds at hold with/without raised tunnel shafts

hatches sizes

overboard and derricks etc

tonnage capacity each in single year and suitable for working with married folds.

Vessel is classed Lloyd's 100A1 or equivalent and Owners guarantee that such classification will be maintained during the entire duration of this Charter Party. Should this classification not be maintained during the specified period then Owners to be liable for any and all extra insurance penalties or assessments directly resulting from the fact that the vessel's guaranteed classification has not been maintained.

Port of Loading

2 This ship shall proceed with all convenient speed to 1 safe berth ODESSA. Owners to satisfy themselves about the prevailing restrictions

and there load, always afloat from ashore and/or craft, as directed by Charterers or then designated representative at ~~berth~~ ~~under use safe anchorage, a full and complete part cargo~~ of 3,500 metric tons hot rolled plates, 5 percent more or less, in Charterers' option. Part cargo in order - cargo under this Charter Party to be separated holdwise from other part cargo. In case same is not possible artificial separation to be arranged by Owners at their time/risk/expense.

EXHIBIT

tabbles

A

General

13 General average shall be settled and adjusted according to York-Antwerp rules, with ~~the latest~~ *amendments*, as and as supplemented by custom and practice at the port of London. ~~it~~

Average

14 Owners will lodge general average deposits from one or more cargoes and will accept a general average undertaking from charterers in the customary form if required by charterers. Owners agree to release one or more cargoes to charterers for transshipment from a port of refuge by and at the expense of charterers, in exchange for a non-responsibility of interest agreement and a general average undertaking from charterers in the customary form. The transshipment expenses shall not be included in the general average except to the extent of the other general average expenses thereby saved.

15 Master to telegraph "Charterers," STEHN & CO, HAMBURG, Fax: +494051477999, E-MAIL: STEHNCO-HAMBURG@SHIPNET.DE as well as Charterer's agents at Port of Loading, should he have to put in at any Port of Ports.

16 In case of detention, the Captain to report the same to Receivers and "STEHN & CO, HAMBURG, Fax: +494051477999, E- MAIL: STEHNCO-HAMBURG@SHIPNET.DE" immediately.

Overtime

17 The ship to work at night if requested to do so overtime to be for account of party ordering same, but it ordered by Port Authorities ~~50 per cent shall be paid by Charterers and 50 per cent by the Owners. Overtime earned by the Officers and Crew shall always be entirely for Charterers' account.~~

18 Shippers/Charterers/Receivers to put the cargo on board, trim and discharge cargo free of expense to the vessel. ~~Freightage is understood to mean travelling of the cargo to the place and any additional termining required by Master to be for Owners' account.~~

Commission

19 An address Commission of 1.25 per cent on the gross amount of freight, dead freight, and demurrage is due on shipment, ship and/or cargo lost or not lost to deadfreight and/or demurrage, if any, is deductible from balance of freight.

Notices

20 Ship to apply to Agents as per Clause 12.

21 Owners or Master to give to loading port agents 3/2/1

22 days notice of vessel's expected date and time of arrival together with approximate quantity of cargo required on giving the days notice.

23 Master also to give to discharging port agents days notice of expected date and time of arrival at discharging port. Upon sailing from the loading port Master will cable STEHN & CO, HAMBURG, Fax: +494051477999, E-MAIL: STEHNCO-HAMBURG@SHIPNET.DE, stating the exact quantity of cargo loaded and his E.T.A. at discharging port. ~~In the event of Owners or Master failing to give the aforementioned notices, Charterers are to be allowed 24 hours extra laytime for loading or discharging.~~

24 The Act of God, the Queen's enemies, Arrest and/or Restraints of Rulers, Princes and People, Quarantine, Fire on Board, in Bulk or Craft or on Shore, loc. Barrary of the Master and Crew, Incapacity, Pirates, Robbers by land or sea, accidents to and damage and detention from Boilers, and of Machinery, Collisions, Stranding, detention, or from any act, neglect, default or error in judgment whatsoever of the Pilot, Master, Crew or other servants of the Shipowners in the management and/or the navigation of the vessel, and all and every other Dangers and Accidents of the Seas, Rivers and Canals of whatever nature and kind whatsoever, before and during the said voyage always mutually excepted. Vessel has liberty to call at any port or ports, in any order, or places, to bunker, or to deviate for the purpose of saving life or property, with leave to sail without Pilots, and tow or to be towed and assist vessels or to be assisted in all situations whatsoever. Salvage and/or towage for Owner's sole benefit.

25 All liability of Charterer shall cease on completion of loading except Charterers to remain responsible for payment of freight, ~~deadweight and demurrage if any, deadfreight and demurrage if any.~~

Insurance

26 Any extra insurance premium on cargo on account of vessel's age, flag, etc. or ownership is to be covered by Charterers' account.

Bad Weather

2. The Cartman shall cover *close* the bulk of each hold as soon as the loading into cargo has finished, and also all hatches when the loading or discharging has finished for the day or the weather be wet or threatening. He shall also, during rain or snow, *cover close* up all hatches by which loading or discharging is not actually going on. It is agreed that the Captain may send someone to check the weight of the cargo on delivery, so as to avoid dispute, and weight as ascertained to be conclusive.

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25. If through congestion at the Port of Discharge vessel is kept waiting off the port lay days are to commence to count as per clause 6, but not until 36 hours from arrival (Sundays or local equivalent and holidays exempted)

26. In the event of any general strike, war, insurrection, revolution or war, which may prevent the Shipment of cargo under this Charter, the Owners in the event of no cargo having been loaded, have the option of cancelling this Charter or if any cargo has been loaded they have the right to proceed on the voyage with the cargo so loaded. In the latter case the time to count as lay days to be mutually agreed between Owners and Charterers.

G:ab-Dischlage

27. Second, as stated in the charterparty, the cargo is to be loaded in deep tanks, bunkers or other compartments not easily accessible to grabs. If the cargo is loaded and stowed in accessible compartments, any extra expenses incurred at loading, port and time lost to be for ship's account, less any extra trimming necessary on account of vessel's construction to be for Charter's account and time to be for Charter's account. Any extra expenses and loss of time extra and above the cost of normal grab discharge incurred at discharging port for cargo not easily accessible to grabs or loaded in the tween-decks to be for Charter's account. All extra any extra expenses incurred solely owing to vessel's construction and amounts involved may be deducted from the balance of freight pending final adjustments. All extra time lost under this clause to be added to the laytime. Deep tanks, bunkers and all other provisions within vessel's holds are to be checked against damage by receivers' union, including which Charterers are to be responsible for all consequences any disputes regarding stowage, damage to the settled directly between Charterers and Stowagees and any other matter in connection therewith.

Verpflichtung

234 All disputes, from time to time arising out of this contract shall, unless the parties agree forthwith to a written Arbitration, be referred to the final settlement of
235 three Arbitrators, every one of whom shall be appointed by each of the parties, with power to such Arbitrators to appoint an umpire.
236 Any claim must be made in writing and a claimant's Arbitration appointed within twelve months of that
237 discharge and where this provision is not complied with the claim shall be deemed to be questioned or abandoned on the
238 ground that any of the Arbitrators is not qualified as above, unless objection to his appointment be taken before the award is made.

Protective Clauses

29. New Jason Clause. Both-to-Blame Collision Clause. P & I Club Oil Bunkering Clause and Chamber of Shipping War Risks 1 and 2 are to be deemed incorporated in this Charter Party *and in any Bills of Lading issued hereunder.*

30 The Pilot, Master, Officers and Crew of the vessel, and any tow boat person or facility assisting the vessel, shall not be agents or employees of Charterers and the Charterers shall not be liable for any loss, damage or claims resulting from or arising out of negligence in error of any of them while vessel is proceeding to or lying at any place of loading and/or discharging

31 While the Surveyor is taking draft readings and/or tank soundings, Master is not to take on or pump ballast at load and discharge ports without obtaining permission of the Charterers, and vessel is not to take on release or switch from one tank or other compartments to another any ballast, fresh water or fuel oil.

32. Vessel to furnish a certified calibration scale for all tanks including fore and aft peaks and double bottom tanks and deep tanks. Plimsoll marks amidships and draft marks on port and starboard sides bow and stern to be clearly cut and marked on shell plating. Vessel to furnish capacity plan, displacement scale and deadweight scale and same to be certified by the Master as to correctness at time of loading.

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[illegible]

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Accounting

39) Owners warrant that the vessel will not be scheduled for breakup upon completion of this Charter (charterers are granted a maritime lien on the vessel and are

entitled to deduct from city sums due to collectors for all damages arising from a breach of this warranty.

40. *FIRST* (opening and *FIRST* closing of branches to be for owners' accounts provided permitted by local regulations

21 In the event of a part cargo option being agreed during negotiations the following conditions are deemed to have been accepted by Owners (15)

(a) Owners have the option to complete with other liquid general merchandise at their risk and expense from a port en route to a port en route Any such completion

cargo is to be non injurious to cargo carried under this Charter party, and is not to be loaded in some compartments adjacent to other compartments. Completion cargo is to be loaded between completion cargo and cargo under this Charter Party, but any artificial separation between completion cargo and cargo under this Charter Party, shall not constitute a breach of the obligation of seaworthiness.

Charter Party to be at Owners' time/risk/expense if such

completion cargo is in bulk then this is not to be stowed in tweendecks above cargo loaded under this charter party, and it is to be secured in bulk and same is carried in tweendecks that the tweendeck hatch covers are to be securely covered by tarpaulins to avoid seepage of cargo into lower holds. At all

times Owners are to be fully responsible for any contamination of cargo loaded under this Charter Party. Owners are to be loaded or discharged at some time as cargo earned under this Charter Party

161

~~free and immediately available. At discharging - put letter in container - is not to be presented for acceptance until after value received -~~

161

Handwritten musical notation on a single staff, featuring a treble clef and a key signature of one sharp (F#). The notation includes various note values, rests, and bar lines, with some notes marked with 'x' or 'y' above them. The manuscript is written in ink on aged, slightly discolored paper.

They say that the 400,000-450,000 slaves who were sent to the Americas had been finally loaded and dispatched

42 It is not a mere formality, either, for all of our conditions are designed to have been accepted by Courts.

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~~enriched my journal and made my paper necessary to ensure adequate protection of your life. I am sure that you will find this information very interesting.~~

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NOTICE

SECTION

Part 1000, 1100

~~Boxed Carbons~~

of Bills of Lading have recently been presented to the Charterers by the Charterers signing Bills of Lading for a greater quantity than they show to have been loaded. The Charterers are requested to advise the Charterers by writing the Charterers of the actual quantity loaded. The Charterers should carefully calculate from ship's papers the weight of cargo and make sufficient allowance for weight of bunker fuel, water, stores, etc. The Charterers are liable for any excessive quantity, dues paid by the vessel or such excesses are not recoverable.

POSSESSION

A true copy of original Bill of Lading

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Additional Clauses Nos. 43 to 54, as per attached Rider, are deemed fully incorporated in this Charter Party and form part of same.

THE OWNERS

THE CHARTERERS



MV "CHANG LE MEN"

CHARTER PARTY DATED HAMBURG, 24th AUGUST, 2006

=====

Clause 42

Any taxes/dues/wharfages on vessel/freight to be for Owners' account.

Any taxes/dues/wharfages on cargo to be for Charterers' account.

Clause 43 - Vessel's Description

MV. CHANG LE MEN

ST. VINCENT FLAG BUILT 1982.09

LOA/LBP/BM/DEPTH 147.40/137.4/23.00/13.15M

17,240MT DWT ON 9.778M SWW

GRT/NRT 11,175/6970

4H/4H MULTI TWEEN DECK GENERAL CARGO VESSEL

GRAIN/BALE CAPACITY 23,188/21,251 CBM

DERRICKS 5 X 25MT (OUT REACH: NO.1/2 6.0M NO.3/4/5 8.4M)

TROPICAL DWT 17,805MT ON 9.981M

WINTER DWT 16,675MT ON 9.575M

SUEZ GRT/NRT 11,392.85/9,459.41

PANAMA GRT/NRT 11,950/9,428

TYPE H.COVER: M.DECK/SINGLE PULL, T.DECK/FOLDING

GRN/BAL CAPA HOLDWISE BREAKDOWN

HOLD NO. GRAIN CUBICS (TWEEN/HOLD) BALE CUBICS (TWEEN/HOLD)

NO.1 1,650/1,364 1,525/1,178

NO.2 2,115/3,495 1,984/3,126

NO.3 3,880/5,325 3,619/4,890

NO.4 2,134/3,225 2,013/2,916

TTL 9,779/13,409 9,141/12,110

TTL GRAIN/23,188CBM, BALE/21,251CBM

HATCH SIZE WD/TD (M)

NO.1 12.80 X 7.80 / 12.80 X 7.80

NO.2 12.60 X 13.10 / 12.60 X 13.10

NO.3 25.60 X 13.10 / 25.60 X 13.10

NO.4 12.80 X 13.10 / 12.80 X 13.10

H.DIMENSIONS (L X B X H) LOW HOLD TWEEN DECK

NO.1 19.20 X 5.10/16.40 X 5.00 19.20 X 6.5/20.80 X 4.00

NO.2 19.80 X 12.00/21.40 X 7.20 20.80 X 22.50/20.80 X 3.50

NO.3 35.60 X 18.20/18.20 X 7.20 36.20 X 22.50/22.50 X 3.80

NO.4 18.20 X 21.40/13.60 X 7.20 20.00 X 22.50/22.50 X 3.60

TANK TOP STRENGTH: NO.1-11.34MT/M², NO.2/3/4 -13.09MT/M²H.COVER STRENGTH: M.DECK- 1.72MT/M², T.DECK-2.60MT/M²DECK STRENGTH: M.DECK -1.42MT/M², T.DECK- 2.65MT/M²

WLTHC IN BALLAST CONDITION: NO.1-12.5M, NO.4- 9.6M

W/L TOPMAST IN BALLAST CONDITION: 36.5M

(LIGHTSHIP/BALLAST WATER ONLY)

DWT ON 31FT (9.448M) SSW 16,300MT

30FT (9.144M) 15,500MT

29FT (8.839M) 14,600MT

28FT (8.534M) 13,800MT

TPC:27.88 (LADEN)
VENTILATION:ELECTRIC (5 AIR CHANGES PER HR)
STEEL BOTTOM
WING/SHOULDER TANK
CO2 FITTED
ALL DETAILS ABOUT AND WOG
OR SIMILAR SUBSTITUTE AT COSMOTRADE OPTION

IF OWNERS NOMINATE A SIMILAR SUBSTITUTE, CHRYS NEED 1 WORKING DAY TO GET RECONFIRMATION FROM SHIPPERS/RECEIVERS FOR THIS NEW NOMINATION

Performing vessel to have

engine/bridge aft
steelfloored throughout all holds
tonnage to be without centreline bulkhead or beam, having clear/ unobstructed holds without any container-fittings or similar in her holds
vessel has no twin-hatches neither pontoon-hatchcovers
vessel has no fixed stanchions on deck
classed highest Lloyd's or equivalent and to be so maintained throughout this Charter Party.

fully P&I insured and to be so maintained throughout this Charter Party.
Owners warrant that the vessel is suitable in every respect for the carriage of bulk steels. Before tendering notice of readiness at loading port, cargo compartments to be clean, completely dry and in good condition and in every respect ready to load bulk steels to Shippers'/ Charterers' surveyor's satisfaction. In case of dispute between Shippers'/ Charterers and Owners concerning vessel's cleanliness, an independent surveyor to inspect the vessel's holds and his decision to be binding upon both parties. Cost of same to be paid by party at fault.

Vessel to be I.S.M. and I.S.P.S. compliant and to be in possession of a valid International Ship Security Certificate (ISSC) or their Interim International Ship Security Certificate (IISCC), copy of which to be mailed to Charterers together with the names of the last 10 ports of call, last 3 cargoes, copy of valid ism certificate. Prior to application for subjects as above, Owners also to fill in the loadport questionnaire, which is constituting part of a valid nomination.

Clause 44

All disputes arising out of this Charter Party which cannot be amicably resolved shall be referred to arbitration in London. Unless the Parties agree on a sole arbitrator, the reference shall be for a tribunal of two arbitrators, one to be appointed by each of the parties who will have power to appoint an umpire if they disagree. The arbitrators and the umpire shall be members of the London Maritime Arbitrators Association current at the time when the arbitration proceedings are commenced. English Law to apply. York-Antwerp Rules latest amendments to apply. BIMCO Arbitration Clause to apply.

Clause 45

If "Freight Prepaid" Bills of Lading are to be issued by Charterers, then same may be prepared, but authority to sign and release same will not be given until Owners' bank receive irrevocable confirmation of freight payment from Charterers' bank.

Clause 46

Detention at loading port US\$ 13.000,-- per day/ pro rata for non readiness of cargo/ cargo documents.

Clause 47

BIMCO Lien Clause to be incorporated in this Charter Party.

The Owners shall have a lien on the cargo and on all sub-freights payable in respect of the cargo, for freight, deadfreight, demurrage, claims for damages and for all other amounts due under this Charter Party including costs of recovering same.

Clause 48

BIMCO ISPS Clause as attached to apply.

BIMCO I.S.M. Clause to apply.

Clause 49

Shore Tally at both ends to be for Charterers' account.

Clause 50

In the event of a boycott arising due to vessel's flag, time lost through such cause not to count as laytime or as time on demurrage. This clause shall also be applicable in the event of labour boycott or any discrimination against the vessel because of her registry and/or crew and/or terms on which the crew is employed.

Clause 51

Deleted

Clause 52

Master/ Owners to be responsible for number of pieces/ bundles/ packages taken on board, to sign daily Mate's Receipt, if required, and to state number of pieces/ bundles/ packages in the Bills of Lading. Hague Visby Rules to apply.

Tally Sheets to be given to Owners/ Master.

Clause 53

Bill of Lading weight to be determined by Mill Certificate or shore figure in Charterers' option.

Clause 54

Stevedore damage at load/discharge port to be settled directly between Owners and Stevedores without any responsibility for Charterers, but Charterers will try best to assist Owners in case of a possible claim with stevedores.

BIMCO ISPS CLAUSE

ISPS Clause

- (A)(i) From the date of coming into force of the International Code for the Security of Ships and of Port Facilities and the relevant amendments to Chapter XI of SOLAS (ISPS Code) in relation to the Vessel, the Owners shall procure that both the Vessel and "the Company" (as defined by the ISPS Code) shall comply with the requirements of the ISPS Code relating to the Vessel and "the Company". Upon request the Owners shall provide a copy of the relevant International Ship Security Certificate (or the Interim International Ship Security Certificate) to the Charterers.
The Owners shall provide the Charterers with the full style contact details of the Company Security Officer (CSO).
- (ii) Except as otherwise provided in this Charter Party, loss, damage, expense or delay, excluding consequential loss, caused by failure on the part of the Owners or "the Company" to comply with the requirements of the ISPS Code or this Clause shall be for the Owners' account.
- (B)(i) The Charterers shall provide the CSO and the Ship Security Officer (SSO)/Master with their full style contact details and any other information the Owners require to comply with the ISPS Code.
- (ii) Except as otherwise provided in this Charter Party, loss, damage, expense, excluding consequential loss, caused by failure on the part of the Charterers to comply with this Clause shall be for the Charterers' account and any delay caused by such failure shall be compensated at the demurrage rate.
- (C) Provided that the delay is not caused by the Owners' failure to comply with their obligations under the ISPS Code, the following shall apply:
- (i) Notwithstanding anything to the contrary provided in this Charter Party, the Vessel shall be entitled to tender Notice of Readiness even if not cleared due to applicable security regulations or measures imposed by a port facility or any relevant authority under the ISPS Code.
- (ii) Any delay resulting from measures imposed by a port facility or by any relevant authority under the ISPS Code shall count as laytime or time on demurrage if the Vessel is on laytime or demurrage. If the delay occurs before laytime has started or after laytime or time on demurrage

has ceased to count, it shall be compensated by the Charterers at the demurrage rate.

- (D) Notwithstanding anything to the contrary provided in this Charter Party, any additional costs or expenses whatsoever solely arising out of or related to security regulations or measures required by the port facility or any relevant authority in accordance with the ISPS Code including, but not limited to, security guards, launch services, tug escorts, port security fees or taxes and inspections, shall be for the Charterers' account, unless such costs or expenses result solely from the Owners' negligence. All measures required by the Owners to comply with the Ship Security Plan shall be for the Owners' account
- (E) If either party makes any payment which is for the other party's account according to this Clause, the other party shall indemnify the paying party.

545-07PJG/PLS

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Pamela L. Schultz (PS 8675)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
COSMOTRADE EXPORT S.A.,

07 CV

Plaintiff,

RULE 7.1 STATEMENT

-against-

GABRO INTERNATIONAL AG,

Defendant.
-----X

The Plaintiff, COSMOTRADE EXPORT S.A., by and through its undersigned attorneys Freehill Hogan & Mahar, LLP, and pursuant to Federal Rule of Civil Procedure (formerly Local General 1.9) and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for COSMOTRADE EXPORT SA (a private non-governmental party) certifies that there are no corporate parents, affiliates and/or subsidiaries of said party which are publicly held.

Dated: New York, New York
November 6, 2007

FREEHILL HOGAN & MAHAR, LLP

Attorneys for Plaintiff

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